

## **REMARKS**

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-44 and 46-54 were pending in the application with Claims 39-44 and 46-49 having been previously withdrawn from consideration. In the Office Action dated October 2, 2008, Claims 1-38 and 50-54 were rejected under 35 U.S.C. § 103(a). Following this response, Claims 1-38 and 50-54 remain under consideration in this application. Applicant hereby addresses the Examiner's rejections in turn.

### **I. Amendments to the Specification**

The specification has been amended, and Applicant respectfully submits that the amendment adds no new matter.

### **II. Rejection of the Claims Under 35 U.S.C. § 103(a)**

In the Office Action dated October 2, 2008, the Examiner rejected Claims 1-38 and 50-54 under 35 U.S.C. § 103(a) as being unpatentable over International Patent Pub. No. WO 03/078134 ("*Procida*"). Applicants respectfully traverse this rejection. *Procida* qualifies as potential prior art only under 35 U.S.C. § 102(e). In addition, the subject matter of *Procida* and the presently claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same entity: NKT Flexibles I/S. Accordingly, 35 U.S.C. § 103(c) applies, thus the rejection of Claims 1-38 and 50-54 under 35 U.S.C. § 103(a) is improper. Applicant respectfully requests withdrawal of this rejection of Claims 1-38 and 50-54.

### III. Conclusion

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,  
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Date: February 24, 2009

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